MT LEGISLATIVE HISTORY

Chapter 92 1955

Bill (H) 39 S _____ Original bill & hist. ___C

H. Committee on Social Security

Hearing Date(s) Jan 17 ✓C
Jan 21 ✓C
Jan 24 ✓C
_____ ___C

Date Out _____ ___C

S. Committee on Relief and Social Security

Hearing Date(s) Feb 10 ✓C
Feb 15 ✓C
_____ ___C
_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

January 17, 1955

COMMITTEE ON SOCIAL SECURITY

The third meeting of the Social Security committee was called to order by Chairman Clark on January 17, 1954. Roll call was taken with the following members being present: Clark, Nelson, Beck, MacDonald, Lee, McOmber, Smith, Tange, Wetzsteon, Goan, Howard, and Sippel.

It was moved and seconded the reading of the minutes be dispensed with.

House Bills No. 38 and 39 were brought before the committee for consideration. It was moved by Lee, seconded by MacDonald that House Bills 38 and 39 be referred to a sub-committee for further study. Motion carried. Chairman appointed MacDonald as Chairman, Smith and Lee as the sub-committee.

Being no further business it was moved and seconded that the meeting adjourn. Motion carried.

Clark, Chairman

January 21, 1955

COMMITTEE ON SOCIAL SECURITY

A meeting of the Social Security Committee was called to order by Chairman Clark on January 21, 1955 with the following members being present: Clark, Nelson, Beck, MacDonald, Tobin, Cumming, Lee, McOmber, Bricker, Smith, Tange, Wetzsteon, Goan, Howand and Sippel.

House Bills No. 38, 39 were brought to the attention of the committee for consideration. A public hearing was held with the following men for and against the bills.

Mr. Smith, member of the committee discussed the purpose of the bill.

Mr. Chadwick W. Smith, Attorney for the Unemployment Compensation Commisstion.

Mike Murphy, Statistician for the Unemployment Compensation.

Don Merrit, Unemployment Compensation.

John Fause, State Administrator of the Public Welfare

Robert Corrett, Montana Power Company and Anaconda Copper Mining Company.

Sam D. Goza, representing the Kalispell, Whitefish, Great Falls, Silver Bow, Helena, Bozeman employment association & the Western Montana Lumber Association.

Norman Blevins, Association Secretary Lumbermans dealers.

M. E. Evanson, Associate Industries, Billings

Milton Gunn,

James Umber, President State Federation of Labor.

Mr. Gardner, representing 10,000 Mine Mill Association

Mr. Sullivan, Commissioner of Labor and Industry

Albert Root, Unemployment Compensation Association

Testimony attached.

House Bills 38 and 39. A motion was made by Smith, seconded by Cumming that furthur action be postponed until the next meeting as the subcommittee was not ready to report. Motion carried.

House Bills 41 and 60. It was moved by Tobin, seconded by Cumming that these bills be held for furthur action until the next meeting.

Being no furthur business the meeting was adjourned.

Earl E. Clark

Clark Chairman

Janua ry 24, 1955

COMMITTEE ON SOCIAL SECURITY

A meeting of the Committee on Social Security was called to order by Chairman Clark on January 24, 1955 with the following members present: Clark, Nelson, Beck, MacDonald, Tobin, Cumming, Lee, McOmber, Bricker, Tange, Wetzsteon, Goan, Howard and Sippel.

House Bills No. 38 and 39 were brought to the attention of the committee. Representative MacDonald gave the subcommittee report on these bills. Mr. John Sasek also appeared on behalf of House Bill 39. Mr. Alfred Dougherty, Legal council of Legislative Council and Mr. Burr, President of the Legislative Council also appeared.

After considerable discussion MacDonald moved that House Bill 39 be amended by striking out all of Section 4. Motion was seconded by Bricker. Motion carried.

MacDonald moved that House Bill 38 do pass. Motion seconded by Bricker and carried.

A motion was made by Lee, seconded by Bricker that furthur action on House Bills 41 and 60 be postponed until the next meeting. Motion carried.

Being no furthur business the meeting adjourned.

Carl E. Clark

Clark, Chairman

February 10, 1955

A meeting of the Committee on Relief and Social Security was called to order in Room 401 of the Capitol Bldg. at 3:30 P.M. by the Chairman, Senator Robins, with all of the members present.

House Bill No. 38 was considered. After some discussion, Senator Hofland made a motion that House Bill No. 38 be concurred in. Senator Wenz seconded the motion, which was then voted on and passed by unanimous vote.

Mr. John Sasek appeared before the committee and gave some of the background of the Public Employees' Retirement System.

"We have been in existence since July 1, 1945. It is a State Department; it was set out to be a Retirement System for the State employees. The law was taken from California. As time goes on, we find we must amend the law to fit into the picture here in Montana." Mr. Sasek said that when the law was adopted the employer's contribution was not as high as in California. He said the State pays 3.4% into the system. He said the employees pay on a graduated scale depending on the age. Mr. Sasek said that under the system, every political subdivision outside of a State Agency must contract with the system. He said women pay higher rates than men. He stated further that they have 55 counties out of 56 contract with them. All of the employer's contributions go into a "Pool and Mingled Fund".

Mr. Sasek said that at the time the Retirement System went into effect, it was the only thing these people could get. He said the cities, counties, school districts, and irrigation districts are all contracting agencies.

Mr. Sasek said that they have a Board consisting of five members. They invest their money in Montana. He said they are restricted by law so that they can't do anything risky. He said that a Retirement System to be complete must have three things, death benefits, disability benefits and superannuation to old age. He said disability benefits are industrial and ordinary. "We use the Industrial Accident Board as an offset." He said they didn't feel they could do away with the offset yet.

Mr. Sasek said that after ten years, if a person has a disability not caused by the job, that person may apply for and receive retirement from the system.

Mr. Sasek said that the years that a man has contributed on are used as a basis for his Retirement. He said further that as long as they are going to work, they contribute now.

Senate Bill No. 168 was considered. It was brought out that the Comptroller General ruled that they are State Employees. Colonel Thode of the National Guard stated that they can only belong to one system. He stated further that if they were to be covered by PERS, the employers' share would be about $30,000. a year out of the State.

Mr.Sasek said that in the past they have been excluded on the basis of not being paid by State Warrants.

House Bill No. 39 was considered, and Mr.Sasek gave some explanation of this bill. An amendment was suggested as follows: Amend in Line 14, Page 12 of the Original Bill after the word "circumstances" by striking the "period" and inserting in lieu thereof a "semicolon" and the following words: "provided however, that the provisions of this act shall not apply to coverage under Old Age and Survivor's Insurance."

Senator Hatch made a motion that the amendment to House Bill No. 39 be adopted. Senator McGowan seconded the motion, which was then voted on and passed by unanimous vote.

Consideration of House Bill No. 39 was then passed for the day.

Senator Brownfield made a motion that Senate Bill No. 168 Do Pass. Senator Working seconded the motion, which was then voted on and passed by unanimous vote.

Following a motion duly made and seconded, the meeting was adjourned.

Chairman

PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Sam W. Mitchell Bldg.
Helena, Montana

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I. Introductory Information

A. Created by law enacted by Twenty-Ninth Legislative Assembly on March 16, 1945.
B. Became effective as a state department on July 1, 1945.
C. One of three state retirement systems in Montana (Others: Teachers, Highway Patrol)
D. Administered by Board of Administration consisting of five members.
   1. Three public employee members; two members from public at large.
   2. Serve for terms of five years (1953)
   3. Meet on third Thursday and Friday of each month.
   4. Approve all benefit claims, expense claims and investments.
   5. All reimbursed for actual expenses with additional per diem for two members from public at large.
E. Office operated by Secretary appointed by Board of Administration
   1. Actuarial work under advisory control by Consulting Actuary.
   2. Accounting operations under supervisory control of Chief Accountant. (9)
F. Investments
   1. Montana Municipal Bonds
   2. U. S. Government Bonds
   3. Guaranteed Real Estate Mortgages on Montana Property (VA & FHA)
   4. Subject to approval of State Board of Lands & Investments since July 1, 1953.
G. Growth of Membership
   1. 1,677 in 1945-46 (State Employees Only)
   2. 2,864 in 1946-47 (State); 67 County; 203 City; 46 School District; 50 Other Total 3,230.
   3. 5,130 in 1947-48. (All Agencies)
   4. 6,062 in 1948-49. " "
   5. 6,894 in 1949-50. " "
   6. 8,124 in 1950-51. " "
   7. 8,922 in 1951-52. " "
   8. 9,718 in 1952-53 " "
   9. 10,188 in 1953-54. " "
H. Assets as of July 1, 1954--$9,188,971.92.
I. Growth of Benefits:
   1. From one in 1945-46 to 1,418 in 1953-54.
J. Coverage
   1. All state departments
   2. Fifty-five (55) counties
   3. Forty-nine (49) cities
   4. Ninety-one (91) school districts
   5. Twelve (12) county high schools
   6. Three (3) Irrigation districts
   7. Two (2) city water departments
   8. Two (2) public health districts
K. System maintained by joint contributions of employers and employees
   1. Employer contribution of 3% for benefits; .6% towards administration; total, 3.6
   2. Employee contributions vary according to [illegible]
      a. From 3% at age 15 to 3.2 at age [illegible]
      b. From 3.5% at age 15 to 9.5% at age of [illegible]
      c. One (1) dollar membership fee for each member each fiscal year--administration

II. BENEFITS OF MEMBERSHIP:

A. Death Benefit
1. Lump Sum Benefit
   a. Return of all membership contributions at interest
   b. One month's salary added to (a) for each year of credited service through six years of service
2. Monthly Survivor Annuity to Beneficiary
   a. Available to all beneficiaries of members who die before retirement and who have at least ten (10) years of creditable service.
   b. Beneficiary has ninety (90) days after death of member to elect either this survivor annuity or lump sum benefit.
   c. Based on beneficiary's age at the time of member's death and his accumulated credits in retirement system at time of death--prior service and contributions.

B. DISABILITY BENEFITS:

1. Industrial Disability Retirement
   a. Available to members immediately upon employment regardless of age or service.
   b. Disability must be permanent or of uncertain duration.
   c. Disability must arise out of and in course of public employment.
   d. Provides fifty (50) per cent of final compensation per year based on the average salary during the three highest years of contributions.
   e. Industrial Accident Board compensation is used as an off-set on retirement payments during their period of award.
   f. Provides survivor option benefits to beneficiaries if elected by member the same as for service retirements.

2. Ordinary Disability Retirement
   a. Requires ten (10) years of service credit.
   b. No age requirment for benefit.
   c. Disability must be permanent or of uncertain duration.
   d. Guarantees at least twenty-five (25) per cent of final compensation of member per year based on three highest years of contributions--for members retired under sixty (60) years of age.
   e. Provides same retirement at 60 as 65 years of age to member as would be available under service retirement at sixty-five (65) years of age.
   f. May earn the difference between his retirement and final compensation while under retirement before affecting disability retirement.

C. Service Retirement:

1. Voluntary Retirement
   a. As early as sixtieth birthday if member has ten (10) years of credit.
   b. Basic retirement without any discount available at 65 years of age.
   c. Approximates 1/70th for each year of creditable service as benefit.
2. Compulsory Retirement
   a. At age of seventy (70) years if member is not continued in service.
   b. Provides minimum benefit of $40.00 per month for member who has prior service credit and whose final compensation averaged $80.00 or more per month.

C. Guarantees annuity based on contributions to retirement system for those not having prior service credit.

(1) Schedule of annuity benefits according to age for male members

Age of Member	Monthly Benefit Per $1000.00
60	$12.36
61.	12.76
62	13.16
63	13.60
64	14.04
65	14.52
66	15.05
67	15.58
68	16.16
69	16.78
70	17.42

III. REFUND OF CONTRIBUTIONS:

A. One hundred per cent refund of all contributions upon termination of service to all members having ten (10) or more years of service credit.

B. Ninety (90) per cent refund of all contributions upon termination of service to all members having less than ten (10) years of service credit.

C. May borrow up to twenty-five (25) per cent of all contributions upon termination of service with ten (10) or more years of service without losing vested right toward retirement.

D. May redeposit refunds upon return to public service and restore same rate of membership and credits as member had upon termination of service.

IV. VESTED RIGHT

A. Member with ten (10) or more years of service may allow contributions to remain in retirement system drawing 2½% compounded annually toward retirement.

B. May apply for and receive service retirement as early as sixty (60) years of age.

EXPLANATION SHEET

for

HOUSE BILL NO. 39

SECTION I. (68-102) Definitions:

(d) "Public Agency" (Page 2, Lines 19 and 20) Clarification of Public Agency definition for administrative purposes so that voluntary agencies of public officials and housing authorities do not request or expect to qualify for membership because of receiving their support from taxes indirectly.

(f) "State Employee". (Page 3 Lines 30 through 39) Redefines State employee so that members appointed to state boards or commissions, who serve intermittently and on a per diem basis, are not eligible for membership in retirement system. Does not exclude elected board members such as county commissioners and city aldermen. (Companion provision to Section 68-203 (i) page 8, lines 64 and 65)

"Temporary Employee" (Page 3, line 40) Deletes provision relating to temporary employees as a classification of public employees and provides coverage for any employee hired by state or political subdivision. Clerks have had constant difficulty in distinguishing such employees and many regular employees have been excluded or delayed in coverage because of this classification. (Companion to (ai) being deleted page 6, line 139).

(n) "Prior Service" Change of date for prior service termination from January 1, 1945, to July 1, 1945, in this section was not amended in 1951 along with other provisions relating to prior service thus being in conflict and in need of correction.

(q) "Compensation Earnable" (Page 4, lines 89 through 95). Eliminates $416.66 monthly salary ceiling as basis of contributions to retirement system so that department heads, elective officers, judges, and seasonal workers may contribute on all their compensation and retire accordingly. Members who are near retirement may buy any service prior to July 1, 1945, and retire prior to July 1, 1952 if they pay contributions

on the difference between the $416.66 already contributed on and their actual salaries, including the 3% employer share (23 out of 39 state retirement plans have no salary ceiling limitations.)

(ai) "Temporary employee" (Page 6, line 139). Deletes "provision relating to "temporary employee" and is companion to explanation of page 3, line 40)

SECTION II. Membership:

(a) Page 6, line 5. Makes all public employees members on the first day of employment with exception of those excluded in Section 3, effective July 1, 1955.

SECTION III. Ineligible Members. (Page 8, lines 64 through 68.) (i) Excludes appointive members of boards and commissions. Companion to Section 1 (f) defining state employee.

(j) Gives public employees sixty (60) or more years of age right to elect membership or stay out if they feel membership will not be long enough to provide them with any benefits.

SECTION IV. Powers and Duties of Board of Administration. (h) "Prior Service" (Page 12, lines 132 through 138) Repeals "Whipps' Amendment"of 1951 and provides that prior service may be granted to members only after contributing to retirement system for at least three (3) years. Credit will be given for any prior service without cost to member after a member has a total of ten (10) years of creditable service and three (3) years of membership contributions.

SECTION V. Management of Retirement Fund. (i) (Page 14, lines 16) Authorizes state departments to report actual salaries without the $416.66 monthly salary limitation (Companion to Section 1 (q) page 4, lines 63 through 66)

(j) (page 15, line 43) Authorizes political subdivisions to report actual salaries without the $416.66 monthly limitation. (Companion to Section 1 (r) page 4,

Section 1 (q), page 4, lines 11 through 23.

(n) (page 16, lines 92 through 94) Provides for a 100% refund of contributions to all members upon termination of service regardless of length of service. (23 out of 39 state retirement systems give full refund of contributions with interest; 16 states give a full refund of contributions. Montana now requires at least ten years of service for only a refund of contributions without interest.

(o) (Page 17, lines 124 through 128). New section which allows for transfer of inactive members' contributions to pension accumulation fund of retirement system rather than have it lost through escheat to general fund. Similar provision enacted for Teachers' Retirement System in 1953 and timely now since Public Employees' Retirement Fund will be ten (10) years old on July 1, 1955.

SECTION VI, VII AND VIII. Disability Retirements. (a, b, and c.)(Pages 17 and 18) Provide that all members retired under a disability retirement may be subject to a medical examination at expense of Board of Administration. Law now provides that members of sixty (60) years of age and over cannot be examined under any circumstances and may return to full employment and draw a disability retirement. Only age 60 years deleted.

SECTION IX. Death Benefit. (Page 19 line 15.) Replaces present words of "lesser retirement allowances" with "joint life annuity" because a member electing option 1 which is a lesser retirement allowance may not be qualified for a death benefit if he dies before the end of four (4) months as now allowed by law.

SECTION X. Exemptions of Retirement Fund. (Page 20, line 8) Adds "state or municipal taxes" to present provision so that a retirement pension granted by retirement system will be taxed by the state or municipalities.

SECTION XI. Payment of Retirement Allowances. (Page 20, lines 9 through 17) Provides for a retired member to work a day or [illegible] without loss of annuity or emergency help with retirement allowance being reduced for days so worked.

SECTION XII. Maximum Salary Considered. (Page 20, lines 3 through 5) Companion provision to all previous amendments eliminating $416.66 monthly salary ceiling for contributions. Should be amended to read: "From and after July 1, 1955."

SENATE COMMITTEE ON

RELIEF AND SOCIAL SECURITY

February 15th, 1954

The Senate Committee on Relief and Social Security met at recess in Room 401 at approximately 12:30 P. M. Chairman Robins called the meeting to Order and all members were present with the exception of Senator Nesvig. Before the meeting was over Senators Goodwin and Working were excused.

Mr. John Sasek of the State Employees Retirement System presented all members with an explanation sheet on House Bill No. 39 and he explained each section and answered questions regarding different parts of the bill.

Following Mr. Sasek's explanation of House Bill No. 39 Senator Hofland made a motion that the Committee concur in House Bill 39, which was seconded by Senator Brownfield. The vote was unanimous.

Hofland then made a motion to adjourn the meeting, which was seconded by Wenz and the vote was unanimous.

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Chairman

guilty of a misdemeanor for each violation of the provisions of this chapter or for each act relating to the practice of veterinary medicine in this state, and upon conviction shall be punished by a fine of not less than two hundred dollars ($200.00) nor more than five hundred dollars ($500.00), or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, or by both said fine and imprisonment. Any person convicted a second time for any violaiton of this chapter shall be punished by both such fine and imprisonment. The district court shall have jurisdiction of all prosecutions brought hereunder.''

Severability.

Section 11. **Severability.** If any section, subdivision, sentence or word of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, it shall not affect the remaining portions of this act.

Repealing clause.

Section 12. **Repealing Clause.** All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1955.

CHAPTER 91

An Act to Amend Section 32-1608, Revised Codes of Montana, 1947, Relating to Contracts for Work on State Highways by the State Highway Commission and Authorizing the Montana State Highway Commission to Enter Into Contracts With Any Board of County Commissioners of Any County, to Acquire Rights-of-way, Survey and Construct Federal Farm to Market, Secondary or Feeder Roads Within Such County by Such Method or Methods as May be Agreed Upon by the State Highway Commission and Such Board of County Commissioners, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-1608, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Highway contracts awarded by state commission.

"32-1608. (1790) **Contracts, How Awarded.** All contracts for work on state highways shall be let by the state highway commission, *except as hereinafter provided.* When

the estimated cost of any piece of work shall exceed one thousand dollars ($1,000.00), it shall be the duty of the state highway commission to let such contract by competitive bidding, upon such notice and upon such terms as the commission by its rules and regulations prescribe; provided that if the commission shall find such work may be done and performed by force account or by day's labor in a more efficient manner, it may so conduct the work, and provided further that the commission may use convict labor as, in its judgment, is deemed proper. A contractor upon being awarded a contract for construction, improvement, maintenance or marking upon a state highway, and before entering upon such work shall execute to the State of Montana a bond to be approved by the commission, and to be conditioned for the faithful discharge of its duties under such contract. *Provided, however, that on any highway construction work, which is financed in whole or in part by federal funds, and the secretary of commerce of the United States of America shall affirmatively find that under the circumstances relating to a given project some other method than competitive bidding is in the public interest, the state highway commission is authorized and empowered to enter into contracts with any board of county commissioners of any county, whereby such county is authorized to acquire rights-of-way, survey and construct farm to market, secondary or feeder roads within such county, by force account, unit price or otherwise, as may be agreed upon by said state highway commission and said board of county commissioners.''*

Over $1,000.00 on bid.

Except, may use force account or day labor.

Bond by contractor.

Proviso—may contract with county boards on certain roads

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1955.

CHAPTER 92

An Act to Amend Section 68-102, Revised Codes of Montana, 1947, Relating to Definitions of Terms Used in the Public Employees' Retirement Act by Redefining the Terms "Public Agency", "State Employee", "Prior Service" and "Compensation Earnable"; and Repealing Subsection (ai); to Amend Section 68-202, Revised Codes of Montana, as Amended by Section 2, Chapter

186, Laws of Montana, 1951, Relating to Who Shall Become Members of the Public Employees' Retirement System; to Amend Section 68-203, Revised Codes of Montana, 1947, Relating to Who Are Ineligible for Membership in the Public Employees' Retirement System; to Amend Section 68-501, Revised Codes of Montana, 1947, as Amended by Section 4, Chapter 186, Laws of Montana, 1951, and Section 1, Chapter 225, Laws of Montana, 1953, Relating to Prior Service Credit to be Granted to Members of the System; to Amend Section 68-701, Revised Codes of Montana, 1947, as Amended by Section 2, Chapter 176, Laws of Montana, 1953, Relating to the Management of Inactive Accounts; to Amend Section 68-1001, Revised Codes of Montana, 1947, Relating to Medical Examinations of Members Retired for Disability; to Amend Section 68-1002, Revised Codes of Montana, 1947, Relating to the Reduction of Allowance of Disability Beneficiaries; to Amend Section 68-1003, Revised Codes of Montana, 1947, Relating to Effect of Refusal of the Disability Beneficiary to Submit to Medical Examination; to Amend Section 68-1101, as Amended by Section 7, Chapter 186, Laws of Montana, and Section 2, Chapter 225, Laws of Montana, 1953, Relating to the Effect of an Election of a Joint Life Annuity Option on a Death Benefit; to Amend Section 68-1303, Revised Codes of Montana, 1947, Relating to Exemption of Retirement Fund Benefits From Execution, Garnishment, Attachment, Assignment or State or Municipal Taxes; to Amend Section 68-1306, Revised Codes of Montana, 1947, Relating to the Ineligibility of Retired Members for Retirement Allowance While in State Service; to Amend Section 68-1308, Revised Codes of Montana, 1947, Relating to Compensation Considered for Retirement Contributions; and Directing That Invalidity of a Part of This Act Shall Not Affect or Impair the Remainder, Making This Act Effective Upon Its Passage and Approval and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 68-102 of the Revised Codes of Montana of 1947 and section 1, chapter 186, laws of Montana, thirty-second session, 1951, be, and the same are hereby amended to read as follows:

Definitions.

"68-102. **Definitions.** The following words and phrases used in this act, unless a different meaning is plainly indicated in the context, shall have the following meanings:

"Retirement system."

(a) 'Retirement system' shall mean the 'public employees' retirement system' created by this act.

"Contracting city.

(b) 'Contracting city' shall mean any municipal corporation in the state which has elected to have all, or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose.

"Contracting county."

(c) 'Contracting county' shall mean any county in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to counties, wherever in this act reference is made to 'city,' 'contracting city,' 'city employee,' 'city clerk,' 'municipal corporation,' or 'legislative body' of any city or municipal corporation, such words shall be construed to read, respectively, as 'county,' 'contracting county,' 'county employee,' 'county clerk,' 'county' or 'board of county commissioners' of any county.

"Public agency."

(d) 'Public agency' shall mean any public district or other local authority *supported in whole by public taxes.*

"Contracting public agency."

(e) 'Contracting public agency' shall mean any public agency in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to public agencies, whenever in this act reference is made to 'city,' 'contracting city,' 'city employee,' 'city clerk,' 'municipal corporation,' or 'legislative body' of any city or municipal corporation, such words shall be construed to read, respectively, as 'public agency,' 'contracting public agency,' 'public agency employee,' 'secretary of governing board or analogous authorized employee of the public agency,' 'public agency,' or 'governing board or head of a public agency not managed by a board.'

"State employee."

(f) 'State employee' means any person employed by the state in any capacity whatever and whose salary is paid either by warrant of the state auditor and from the fees or income of any department or agency of the state, ex-

cepting all elective and all appointive officers, court commissioners, *and* the members of any state board or commission who serve the state intermittently and are paid on a per diem basis (*except as herein otherwise provided*). 'State employee' means further any employee under direct state supervision or functional state supervision as certified by the head of the state department concerned and approved by the board *of administration* of the public employees' retirement system, who is paid either fully or in part from federal funds, but is not subject to the federal retirement system.

"Head of department." (g) 'Head of department' means the head of any department, institution or branch of the state service which directly pays salaries out of its income or which prepares, approves, and submits salary statements of its employees to the state board of examiners, state auditor and state treasurer for payment.

"Member." (h) 'Member' shall mean any person included in the membership of the retirement system set forth in section 68-202 and not excluded in section 68-203.

"Board." (i) 'Board' shall mean the 'board of administration' created in this act.

"Retirement fund." (j) 'Retirement fund' shall mean the 'public employees' retirement fund' created and established in section 68-405.

"State service." (k) 'State service' shall mean service rendered as an employee, hired or appointed, of the state or its university or any of the colleges, schools, components or units thereof for the purpose of this act, service rendered as an employee of any contracting city for compensation, and, for the purposes of this act, a member shall be considered as being in 'state service' only while he is receiving compensation from the state, or its university as aforesaid or the contracting city for such service, except as provided in subdivision (f) of section 68-501.

"Prison employee." (l) 'Prison employee' for the purpose of the retirement system, means persons appointed by the warden of the state prison or by the state board of prison commissioners.

"Prior service." (m) 'Prior service' shall mean all state service rendered before the first day of *July,* 1945; and all *state* service rendered as an employee of a contracting city before the effective date of the city's participation in the retirement

system, and allowable as provided in subdivision (h), section 68-501. Employees of a contracting city shall receive credit for prior service only if the election of the contracting city to participate in the public employees' retirement act is filed with the board on or before, but not after July 1, 1950. Notwithstanding the sentence preceding, 'prior service' as applied to a person, employed by the state, including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or as applied to a person who became a member prior to said amendments, because of a change in the employment status to a full time basis, shall mean all state service rendered before the effective date of said membership.

"Continuous service." (n) 'Continuous service' as applied to 'prior service' shall mean all prior service, regardless of interruptions in such service, and as applied to service as a member shall mean uninterrupted employment in state service except as provided by subdivision (h) section 68-501, and, except that when for any cause whatever, a member discontinues state service but subsequently re-enters such service within three (3) years from the date of the discontinuance, such interruption shall not be deemed to break the continuity of service.

"Beneficiary." (o) 'Beneficiary' shall mean any person in receipt of a pension, annuity, retirement allowance, death benefit or any other benefit provided by this act.

"Compensation." (p) 'Compensation' shall mean the remuneration paid in cash out of funds controlled by the state, the university or the contracting city, plus the monetary value as determined by the board of administration, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished by the state, the university, or the contracting city to a member, in payment for services.

"Compensation earnable." (q) 'Compensation earnable' by a member shall mean the average monthly compensation as determined by the board upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, it being assumed that during any absence said member was in the position held by him at the beginning of the absence*: and provided that compensation received by a member subsequent to July 1, 1952, in excess*

of five thousand dollars ($5,000.00) per annum may be used as a basis of compensation for the purpose of this retirement system if (a) he contributes normal contributions on the excess of such salary subsequent to July 1, 1952, over five thousand dollars ($5,000.00) to his individual account in the annuity savings fund and (b) he contributes three per cent (3%) of the excess of his salary subsequent to July 1, 1952, over five thousand dollars ($5,000.00) to the pension accumulation fund of the retirement system.

"Final compensation."

(r) 'Final compensation' shall mean the average annual compensation earnable by a member during any three (3) consecutive years upon which normal contributions have been made, said years to be chosen by the member.

"Regular interest."

(s) 'Regular interest' shall mean the average interest earned on investments made hereunder, compounded at each June thirtieth, subject to subdivision (j) section 68-501 plus such additional interest as the board may credit from year to year in accordance with the provisions of this act.

"Normal contributions."

(t) 'Normal contributions' shall mean contributions by members under the provisions of section 68-701 (g) to (n), both inclusive.

"Additional contributions."

(u) 'Additional contributions' shall mean contributions by members under the provisions of section 68-701 (k).

"Accumulated normal contributions."

(v) 'Accumulated normal contributions' shall mean the sum of all the normal contributions standing to the credit of a member's individual account, together with the regular interest thereon.

"Accumulated additional contributions."

(w) 'Accumulated additional contributions' shall mean the sum of all the additional contributions standing to the credit of a member's individual account, together with the regular interest thereon.

"Accumulated contributions."

(x) 'Accumulated contributions' shall mean accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account.

"Pension."

(y) 'Pension' shall mean payments for life derived from contributions made from the state controlled funds, or in the case of members from contracting cities from the funds of such cities, as provided in this act.

"Annuity."

(z) 'Annuity' shall mean payments for life derived from contributions made by a member as provided in this act.

"Retirement allowances."

(aa) 'Retirement allowance' shall mean the pension plus the annuity.

"Death allowance."

(ab) 'Death allowance' shall mean payments for life, or until remarriage, or until the youngest child shall attain the age of eighteen (18) years, as provided in section 68-1101.

"Actuarial equivalent."

(ac) 'Actuarial equivalent' shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the board, and interest at a rate to be annually determined by the retirement board compounded annually, subject to subdivision (j), section 68-501.

"Retirement."

(ad) 'Retirement' shall mean withdrawal from active service with a retirement allowance granted under the provisions of this act.

"Disability" and "incapacity for performance of duty."

(ae) 'Disability' and 'incapacity for performance of duty' referred to herein as a basis of retirement, shall mean disability of permanent duration or disability of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

"Actuary."

(af) 'Actuary' shall mean the actuary regularly and continuously employed on a full or part time basis, by the board of administration.

"Benefit."

(ag) 'Benefit' shall be the retirement allowance, death allowance, death benefit or refund of accumulated contributions provided by this act.

"Fiscal year."

(ah) 'Fiscal year' shall mean any year commencing with July first and ending June thirtieth next following.

Amending clause.

Section 2. That section 68-202 of the Revised Codes of Montana, 1947, as amended by section 2, chapter 186, laws of Montana, thirty-second session, 1951, be, and the same is hereby amended to read as follows:

"68-202. **Members — Re-entry Into State Service — School District Employees:**

All employees to become members.

(a) *From and after July 1, 1955.* All employees shall become members on the first day of employment.

Employees re-entering service, exception.

(b) Every employee who re-enters state service shall become a member unless he has had an original election of exemption from membership and his state service was not interrupted by a break of more than one (1) month. A seasonal employee who has had an original election of exemption from membership will not be subject to the requirement regarding the break in service while continuing in his original employment and employed on a seasonal basis, but upon termination of employment to accept new employment or absence of more than one (1) month in returning to original employment in any ensuing season, such a seasonal employee shall become a member of the retirement system upon re-entry.

School district employee—absence during vacation is service.

(c) Time during which an employee of a school district is absent from state service during official vacation shall be counted as service in determining eligibility for membership under this act."

Amending clause.

Section 3. That section 68-203 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Who ineligible to membership.

"68-203. **Who Are Ineligible to Membership in System.** The following employees shall not become members of the retirement system:

Elective officers, unless elect to join.

(a) Elective officers, other than elective officers who filed with the board of administration an election in writing to become members; provided, that any person so excluded from membership, who later becomes a member hereof, shall have the option of making contributions to the retirement system in the amount which he would have contributed had he not been so excluded, and he shall then receive credit for prior service in the same manner as if he had not been so excluded. If he shall affirmatively exercise the option, the contributions of the state, or the contracting city because of his membership, shall be the same as they would have been had he not been so excluded.

Retroactive inclusion.

Inmates of state institutions.

(b) Inmates of state institutions who are allowed compensation for such service as they are able to perform.

Those training in state institutions.

(c) Persons in state institutions principally for the purpose of training, but who receive compensation.

Independent contractors.

(d) Independent contractors who are not employees.

Part-time employees.

(e) Employees serving on a part time basis unless such employees are members at January 1, 1946, or any time of employment after that date on a part time basis, or unless such employment is regular and continuous and in the opinion of the employing power will extend for more than one (1) year, and requires service for at least one-half (½) the time required of employees in the same group or class, serving on a full time basis. Any employee who is a member at January 1, 1946, and who is serving on a part time basis not requiring at least one-half (½) the time required of employees in the same group or class serving on a full time basis, may elect to terminate his membership in the system. Any employee so selecting shall be considered as permanently separated from state service, solely for the purposes of section 68-701 (m).

In service prior to July 1, 1955 who elected not to join.

(f) Persons in state service on July 1, 1945, or prior thereto who filed with the board of administration an election not to become members, provided any person so excluded from membership by his own election may on or before, but not after, July 1, 1948, file with the board of administration an election to become a member and receive credit for prior service, and shall become a member of the retirement system on the date of filing such election. Such person shall receive credit for prior service only if his election to become a member is filed with the board on or before, but not after July 1, 1948, and shall have the option of paying to the retirement system all or part of the amount which he would have contributed had he not been so excluded but had been a member to and including the date of filing such election to become a member, plus interest which would have accumulated thereon through such date. Upon the retirement of such person under section 68-801, the pensions provided by contributions of the state under this act shall be the same as if such person affirmatively exercised the option to pay to the retirement system all of that amount with accumulated interest.

Election to join prior to July 1, 1948, prior service credits.

Direct appointment by governor not electing to join.

(g) Persons directly appointed by the governor, who do not file with the board of administration an election in writing to become members.

Members of any other retirement system.

(h) Persons who are members of any *other* retirement or pension system supported wholly or in part by funds of the United States government, any state government or political subdivision thereof and who are receiving credit

in such other system for service, it being the purpose of this section to prevent a person from receiving credit for the same service in two (2) retirement systems supported wholly or in part by public funds, and no person shall receive such credit under any circumstances. Any member of the retirement system who, because of his employment by the state, shall be required to become a member of any such other systems, shall be considered solely for the purposes of section 68-701 (m) as permanently separated from state service. The accumulated contributions of any member who shall have died after becoming a member of such other system and before receiving said accumulated contributions, shall be paid to the beneficiary nominated by him to receive any death benefit payable under section 68-1101. Contributions to the retirement fund under section 68-1307 on the basis of compensation earned by members after the effective date of termination of membership herein because of the membership in such other system, shall be repaid to the fund from which said contributions were made. For the purpose of this section, persons who merely are receiving pensions or retirement allowances, or other payments, from any source whatever, on account of service rendered to some other agency than the state and when such persons were not in state service, shall not be considered, because of such receipt, members of any other retirement or pension system."

Appointive board members on intermittent basis of service.

(i) Appointive members of boards and commissions who serve the state or contracting agency on an intermittent basis, and who are paid on a per diem basis.

Persons over 60 with no prior service.

(j) Persons who become public employees under the meaning of this act after they have reached their sixtieth birthday and have no creditable service in this system, and who do not file with the board of administration an election to become members.

Amending clause.

Section 4. That section 68-501 of the Revised Codes of Montana, 1947, as amended by section 4, chapter 186, laws of Montana, thirty-second session, 1951, and section 1, chapter 225, laws of Montana, thirty-third session, 1953, be, and the same is hereby amended to read as follows:

Board of administration members.

"68-501. **Board of Administration.** The board of administration shall consist of five (5) members appointed by the governor, three (3) of which members shall be public

employees and shall be members of the retirement system, and two (2) of which shall be members at large. Terms of office shall be for five (5) years provided, however, that those first appointed after this act takes effect shall be for terms, respectively, of one (1), two (2), three (3), four (4), and five (5) years but their successors shall hold office for terms of five (5) years; provided not more than one (1) employee member of the retirement board shall be an employee of the same department, bureau or agency of the state or contracting public agency. Members of the board shall be paid their actual and necessary expenses and those members of the board who are not members of the public employees' retirement system shall be entitled to receive in addition to actual and necessary expenses compensation at the rate of ten dollars ($10.00) per day. Terms.

"The attorney general is hereby designated legal counsel for the board.

"(a) Vacancy on board — how filled. Any vacancy occurring ninety (90) days or more before the expiration of the term of any member of the retirement board shall be filled by appointment by the governor. The person thus appointed shall serve for the remainder of the unexpired term. Vacancies.

"(b) The board may establish such rules and regulations as it deems proper, within the limitations of this act and for its proper administration, operation and enforcement. The board shall elect one (1) of its members president, and shall appoint and fix the compensation of a secretary who shall have the power to administer oaths, and other necessary employees. It shall maintain its office in the city of Helena. A quorum of the board shall be three (3) members. The board may appoint a committee of one or more of its members, which shall have authority to perform routine acts, such as retirement of members and fixing the retirement allowances, approval of death claims and correction of records necessary in the administration of the system in accordance with the provisions of this act and rules and regulations of the board. All expenses of the administration of this act in excess of amount provided by the one dollar ($1.00) membership fee shall be a charge on the appropriation made from *the* general fund of the state. Powers and duties

Board to determine who are employees.

"(c) The board shall determine who are employees within the meaning of this act and shall be the sole authority and judge under this act as to the conditions under which persons may be admitted to and continue to receive benefits under the retirement system, and shall have exclusive control of the administration and investment of the fund. As soon as practical after the close of each fiscal year, the board shall file with the governor a report of its work for such fiscal year.

Service and disability allowances.

"(d) Subject to the following and to all other provisions of this act, and such rules and regulations as it may adopt in pursuance thereof, the board shall determine and may modify allowances for service and disability.

Credits for service.

"(e) The board of administration shall fix and determine how much service rendered in any fiscal year shall be the equivalent of a year of service and parts thereof, but shall credit one (1) year for two hundred and fifty (250) or more days of service rendered by employees on a per diem basis and one (1) year for ten (10) months or more of service rendered by employees on a monthly basis, but not more than one (1) year for all service in any fiscal year. In determining the credit to be granted for service rendered on a part time basis, for purposes of calculating retirement allowances, the service shall be reduced to a full time basis according to the service required, in the next preceding sentence, for credit for one (1) year of service. In calculating benefits based on service so determined, except in calculating the additional pension provided in subdivision (g) of section 68-901 compensation earnable shall be taken as the compensation which would be earnable if the employment had been on a full time basis, and with a compensation derived by multiplying the member's compensation by ratio of full time to the time he was required by his employment to engage in his duties. In calculating the credit to be granted for service rendered on a part time basis, for purposes of determining qualifications for retirement, and of calculating benefits payable upon death before retirement, the service required in this paragraph for credit for a year of service shall not be used, but instead, a year of service shall be credited for each year during which the member was employed throughout the year on a part time basis and was engaged in his duties the full amount of time he was required by his employment

to be so engaged. Credit for fractional years will be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his duties within the year, by the time he was required by his employment to be so engaged.

When absence from service without compensation allowed.

"(f) Time during which a member is absent from public service without compensation shall not be allowed in computing service; except that time during which a member is absent from public service by reason of having been ordered on duty with the armed forces of the United States, or by reason of voluntary service by the member in said forces or on ships operated by or for the United States government, either during a war involving the United States as a belligerent or in any other national emergency, and for ninety (90) days thereafter shall be considered as time spent in public service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits unless the member elects to contribute and contributes under the retirement system. Any member so absent and until his return within the said ninety (90) days may resign from the system. Any members so absent shall have the right to contribute to said system, either during his service with the armed forces of the United States or in the merchant marine of the United States, and ninety (90) days thereafter or upon his return to the state service, at times and in a manner fixed by the board of administration, amounts equal to the contribution which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence. If he does so contribute he shall receive credit for public service for such time in the same manner as if he had not been absent from public service. Whenever a member elects to continue his contributions, the state or the contracting city, or county or other agency shall thereupon contribute an amount equal to that which it would have contributed under section 68-1307 or under the contract between the board and the legislative body, as the case may be, if the member had not been absent from state service.

"Any member so absent or any member absent from state service by reason of having been ordered by an authorized official of the State of Montana or the United States, to duties outside state service shall be paid upon his request,

his accumulated contributions. Such payment shall terminate any election by said member under this section to contribute.

"Time during which a member is absent from public service by reason of injury or illness determined within one (1) year after the end of such absence as arising out of and in the course of his employment, shall be considered as spent in public service, for the purpose of qualification for retirement and death benefits, but not for the calculation of retirement benefits, except as he received compensation, as defined in this act and as distinguished from disability indemnity under the workmen's compensation act during the absence, and then only to the extent of compensation received.

Employees to file information as board requires.

"(g) Each employee shall file with the board of administration such information affecting his status as a member of the retirement system as the board may require.

Credit for prior service.

"(h) Credit for prior service shall be granted to each person other than persons who are employees of the university or of a contracting city at the time of becoming members of the retirement system, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1946, or within three (3) years after last rendering prior service. Credit for prior service shall be granted to each person who is employed by the university at the time of becoming a member of the retirement system regardless of whether he had been retired under the system prior to the effective date hereof, who has rendered such service as defined in this act and who has become a member of the retirement system on January 1, 1946, or within three (3) years after last rendering prior service.

Credit for prior service—city employees.

"Credit for prior service shall be granted to each person who is employed by a contracting city at the time of becoming a member of the system, who has rendered such service as defined in this act, and who has become a member of the retirement system within three (3) years after last rendering prior service. Notwithstanding the three (3) sentences next preceding, credit for prior service shall be granted to each person employed by the state including the university, who became a member while employed on a part time basis, because of amendments to this retirement

act, or who became a member prior to said amendments, because of a change in status to a full time basis. The credit for prior service to be granted persons employed by a contracting city who are included under the retirement system shall be established by contract between the board and the legislative body of such city; and such credit as may be granted to a person shall be in the form of a percentage, not to exceed the analogous percentage applicable to employees of the state, for each year of prior service. Prior service so credited shall be the basis for a retirement allowance or benefit as provided in this act only if the membership in the retirement system continues unbroken until retirement or retirement allowance or until the granting of such other benefit; provided, that termination of membership by withdrawal of accumulated contributions followed by the redeposit of such contributions upon reentrance into public service as herein provided shall not constitute a break in membership, but this section shall not be construed to entitle any person to credit as prior service for time during which he was not in public service as defined in this act."

Credit where not previously granted.

"Credit for any prior service, not previoulsy granted, shall be granted to a member upon request for retirement provided that the member has a total of not less than ten (10) years of creditable state service of which not less than three (3) years have been as a contributing member of the retirement system and the retirement allowance does not include credit for all state service prior to July 1, 1945, or in the case of a contracting city prior to the date of the contract, or July 1, 1947, whichever is earlier. Proper certification of such service must be furnished.

Conditions.

Board has management and control of system.

"(i) The management and control of the retirement system shall be vested in the board of administration, and it shall exercise the following powers and perform the following duties:

Records, data, computations, actuarial investigations.

"(j) The board of administration shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this act. On July 1, 1946, and at the end of every two-year period thereafter, it shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries under the provision of

this act, and shall further cause to be made an actuarial valuation of the assets and liabilities of the public employees' retirement fund herein created, and from time to time shall determine the rate of interest being earned on the said retirement fund. Upon the basis of any or all of such investigation, valuation, and determination, said board shall adopt such mortality, service and other tables and such interest rate, in lieu of the interest rate specified herein, or any of such items as it shall deem necessary, and shall make such revision in rates of contributions of members as it may deem necessary to comply with the provisions of section 68-701. No adjustment shall be included in the new rates for time prior to the effective date of such revision.

Interest on contributions of members.

"(k) The board shall credit contributions of members of the state and contracting cities with interest at the rate being used under the system on the effective date hereof, compounded each June 30, subject to the foregoing subdivision (j) of section 68-501. At the end of each fiscal year, beginning with the second fiscal year of the operation of the retirement system, it may credit to all contributions held in the retirement fund *on* June 30 of the then current fiscal year, such interest in excess of said rate provided herein as it may deem proper in the light of the earnings of the retirement fund during such fiscal year, but such additional interest credited during any fiscal year shall not be greater than the excess of said earnings over the interest otherwise credited to contributions during that year. Interest at said rate, compounded annually, subject to said foregoing subdivision (j) hereof, shall be used in the calculation of benefits under any mortality table adopted by the board, regardless of any additional interest allowed on contribution under this paragraph.

Records and accounts to be kept.

"In addition to other records and accounts, it shall keep such records and accounts as may be necessary to show at any time:

The total accumulated contributions of members.

The total accumulated contributions of retired members less the annuity payments made to such members.

The accumulated contributions of the state and of contracting cities held for the benefit of members on account of service rendered as members of the retirement system.

All other accumulated contributions of the state and of contracting cities which shall include the amounts available to meet the obligation of the state and of the contracting cities, respectively on account of benefits that have been granted to retired employees and on account of prior service of members.

Financial statement to be published annually.

"(l) In addition to rendering the annual report to the governor required by subsection (c) of this section, it shall cause to be published annually a financial statement showing an actuarial valuation of the assets and liabilities of the retirement system created by this act and a statement as to the accumulated cash and securities in the retirement fund as certified by the state auditor, but until all prior service is verified, the board of administration may omit from the financial statement published annually, assets and liabilities resulting from such prior service, and may include assets and liabilities on account of service rendered as members in amounts equal only to accumulated contributions held on account of such service."

Amending clause.

Section 5. That section 68-701 of the Revised Codes of Montana, 1947, as amended by section 2, chapter 176, 1953 session laws, be, and the same is hereby amended to read as follows:

Management of retirement fund.

"68-701. **Management of Retirement Fund.** The retirement fund shall be managed as follows:

(a) The board of administration shall have exclusive control of the administration of said fund except as otherwise provided.

Land board to invest.

(b) The said fund shall be invested by the state board of land commissioners as part of the long term investment fund.

(c) The board of administration shall deposit monthly in the state treasury all amounts received by it as provided in this section and section 68-1307.

State treasurer custodian of fund.

(d) The state treasurer shall be custodian of the retirement fund, subject to the exclusive control of the board of administration as to the administration thereof and the state board of land commissioners as to the investment thereof. All payment from said fund shall be made by him only upon vouchers signed by two (2) board members

designated by the board of administration. A duly attested copy of a resolution of the board of administration designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer as his authority for making payments upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution of the board of administration.

Interest to be paid into fund.

(e) Interest earned on any cash deposit in a bank by the state treasurer and income on other assets constituting a part of the said fund shall be paid into said fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during said year shall be retained in said fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

Neither members nor employees of board to be interested in investment.

(f) Except as herein provided, no member and no employees of the board of administration shall have any interest direct, or indirect, in the making of any investment, or in the gains of profits accruing therefrom. And no member or employee of the said board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits, nor shall any such member or employee in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an indorser or surety as to, or in any manner an obliger for investments by the board.

Rules of contributions, how set.

(g) The normal rates of contribution of members shall be based on sex and the age at the nearest birthday at the time of entrance into the retirement system. The normal rates of contribution shall be such as will provide an average annuity at age sixty-five (65) equal to one one hundredfortieth (1/140) of the final compensation of members, according to the tables adopted by the board, for each year of service rendered after entering the system. Nothing in this section shall prevent the adoption of one (1) schedule of rates for males and one (1) schedule for females.

Amount of annuity receivable.

(h) The actual amount of annuity receivable by any member upon retirement shall be the actuarial equivalent of his accumulated contributions, as provided in subdivisions (a) and (k) of section 68-1307.

Board to certify rates to department heads.

(i) *From and after July 1, 1955,* the board of administration shall certify to the head of each office or department of the state and to the registrar of the university the normal rate of contribution as provided in this act for each member in such office, department, or the university, respectively. The head of each office or department of the state shall apply such rate of contribution to the compensation of each member, and shall certify to the state auditor on each and every payroll the amount to be contributed and shall furnish immediately to the board of administration a copy of each and every such payroll; and each such amount shall be deducted by the head of each office or department and shall be remitted to the board. The registrar of the university shall apply the rate of contribution certified to him by the board to the compensation of each member employed by the university and the contributions so determined shall be deducted by the registrar of the university from the compensation of each such member; each such amount shall be remitted to the board and the registrar of the university shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by members during the period covered by such payment, except their claims to the benefits to which they may be entitled under the provisions of this act.

Procedure.

Board to certify to city clerk rates.

(j) *From and after July 1, 1955,* the board of administration shall certify to the city clerk, or other officer designated by the legislative body, of each contracting city the rate of contribution as provided in this act for each member included under the retirement system respectively. The city clerk, or other officer, shall apply the rate of contribution certified to him by the board to the compensation of each member included in the retirement system and the contribution so determined shall be deducted by the city clerk, or other officer, from the compensation of each such member; each such amount shall be remitted to the board and the city clerk or other officer, shall furnish

Procedure.

to the board a copy of each and every salary roll and pay-roll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims to the benefits to which they may be entitled under the provisions of this act.

Additional contributions permitted.

(k) Subject to the rules and regulations to be established and promulgated by the board of administration, any member may elect to contribute at rates in excess of those provided for in subsection (i) and (j) of this section of this act, for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the state or contracting city any additional financial obligation. The provisions of subdivision (f) and (g) of section 68-203 shall apply also to additional contributions. The board, upon application shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contributions.

Annual membership fee.

(l) In addition to the contributions hereinbefore provided to be paid by employees who are members of the retirement system created by this act, every such employee shall pay an annual membership fee of one dollar ($1.00), which amount, together with other moneys appropriated for that purpose, shall be used for the support of the board of administration.

Withdrawal of contributions

(m) *From and after July 1, 1955,* should the state service of a member be discontinued otherwise than by death or retirement, he shall after the date of discontinuance, be paid such part of his accumulated contributions as he demands. The board may, in its discretion, withhold for not more than one (1) year after a member last rendered state service, all or part of his accumulated normal contributions if after a previous discontinuance of state service he withdrew all or part of his accumulated normal contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in subsection (n).

When board may withhold for one year.

Members with 10 or more years service—election.

Any member with ten (10) or more years of service, whose service is discontinued otherwise than by death or

retirement, shall have the right to elect within ninety (90) days after such termination of service, and without right of revocation, whether to allow his accumulated contributions to remain in the retirement fund. Upon the qualification for retirement by reason of age or disability of a member who has elected to allow his accumulated contributions to remain in the retirement fund, he shall receive a retirement allowance in accordance with the provisions of section 68-901, exclusive of subparagraph (g) of section 68-901.

Redeposit allowed.

(n) Any member may redeposit in the retirement fund, in one sum or in not to exceed twelve (12) monthly or twenty-four (24) semimonthly payments, an amount equal to that which he withdrew therefrom at the last termination of his membership, subject to minimum monthly or semimonthly payments as fixed by the board of administration. If a member, upon re-entering the retirement system after a termination of his membership, does not elect to make or, having so elected, subsequently does not make such redeposit, he shall re-enter as a new member without credit for any service except the prior service credited to him before said termination, and the rate of his contribution for future years shall be the normal rate provided for in this act at his age of re-entrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the last termination of his membership, and his membership shall be the same is if unbroken by such last termination. Regardless of whether such redeposit is made, the documents held by the retirement system as executed by said member prior to termination of membership shall be held by the system for the same purposes as prior to said termination, and beneficiaries nominated in such documents shall continue unchanged until changed as provided herein."

Dormant account—transfer.

(o) The board may in its discretion transfer the savings account of a member to the pension accumulation fund if the account has been dormant for a period of ten (10) years provided that no right of the member shall be jeopardized by such transfer and the savings account shall be transferred to the member's name upon subsequent re-entry to membership.

Amending clause.

Section 6. That section 68-1001 of the Revised Codes

of Montana, 1947, be, and the same is hereby amended to read as follows:

Reinstatement from disability retirement.

"68-1001. **Reinstatement From Disability Retirement.** (a) The board of administration, may, at its pleasure, require any disability beneficiary to undergo medical examination. Such examination shall be made by a physician or surgeon, appointed by the board, at the place of residence of said beneficiary or other place mutually agreed upon. Upon the basis of such examination the board shall determine whether said disability beneficiary is still incapacitated, physically or mentally, for service in the office or department of the state or of the contracting city, where he was employed and in the position held by him when retired for disability, or for duties proposed to be assigned to him. If the board of administration determines that said beneficiary is not so incapacitated, his retirement allowance shall be cancelled forthwith. If he was an employee of the state or of the university, he shall be reinstated to the position held by him when retired for disability or to a position in the same classification with duties within his capacity. If he was an employee of a contracting city, the board shall notify the proper official of said city that said disability has been terminated and that said person is eligible for reinstatement to duty. The fact that said person was retired for disability shall not prejudice any right to reinstatement to duty which he may have or claim to have.

Member not reinstated may be paid amount up to accumulated contributions.

"(b) In the case of such a member who is an employee of a contracting city, and who for any reason is not so reinstated or is not re-employed by said city in a position subject to the retirement system, he shall be paid an amount which is the actuarial equivalent of his annuity at that time, as based on a disabled life, but said amount shall not exceed the amount of his accumulated contributions as such amount stood at the time of his retirement for disability.

Re-entry of disability beneficiary.

"(c) Should a disability beneficiary re-enter the state service and be eligible for membership in the retirement system in accordance with section 68-202, his retirement allowance shall be cancelled and he shall immediately become a member of the retirement system, his rate of contribution for future years being that established for his age at the time of such re-entry. His individual account shall be credited with an amount which is the actuarial

equivalent of his annuity at that time, as based on a disabled life, but such amount shall not exceed the amount of his accumulated contributions as such amount stood at the time of his retirement for disability. Such member shall receive credit for prior service in the same manner as though he had never been retired for disability."

Amending clause.

Section 7. That section 68-1002 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Reduction of disability benefit when employed.

"68-1002. **Reduction of Allowance When Employed.** Should a disability beneficiary engage in a gainful occupation not in the state service or should he re-enter the state service in a capacity ineligible for membership in the retirement system, the board of administration shall reduce the amount of his monthly pension to an amount which, when added to the compensation earned monthly by him in such occupation, shall not exceed the amount of his monthly compensation at the time of his reitrement. Should the earning capacity of such beneficiary be further altered, the board may further alter his pension to an amount which shall not exceed the amount upon which he was originally retired, but which, subject to such limitation, shall equal, when added to the compensation earned by him, the amount of his compensation at the time of his retirement.

Amending clause.

Section 8. That section 68-1003 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Refusal to submit to medical examination—effect.

"68-1003. **Effect of Refusal of Beneficiary to Submit to Medical Examination.** Should any disability beneficiary refuse to submit to medical examination, his pension may be discontinued until his withdrawal of such refusal, and should such refusal continue for one (1) year his retirement allowance may be cancelled."

Amending clause.

Section 9. That section 68-1101 of the Revised Codes of Montana, 1947, as amended by section 7, chapter 186, laws of Montana, thirty-second session, 1951 and section 2, chapter 225, laws of Montana, thirty-third session, 1953, be, and the same is amended to read as follows:

Death benefit

"68-1101. **Death Benefit.** Upon the death before retirement of a member while in the state service, or within four (4) months after the discontinuance of state service,

or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from the discontinuance of state service, the retirement system shall be liable for a death benefit, which if there is a surviving wife or surviving children under eighteen (18) years of age, shall be paid in monthly installments and to the surviving wife and children as presented therein; otherwise such death benefit shall be paid to his estate, or to such person having an insurable interest in his life as he has nominated by written designation duly executed and filed with the retirement board; provided, however, that death benefits shall not be payable to the beneficiary of a member who (a) has elected a *joint life annuity option* as provided in section 68-1005, *Revised Codes of Montana, 1947, as amended,* or (b) who has received a disability retirement allowance as provided for in paragraphs (a) through (l) of section 68-901, *Revised Codes of Montana, 1947, as amended,* for a period of four (4) months immediately preceding death. Such death benefit shall consist of:

(a) His accumulated contributions, and in addition thereto,

(b) An amount, provided from contributions by the state, or by a contracting city, which shall be equal to one-twelfth (1/12th) of the annual compensation earnable by the deceased during the twelve (12) months immediately proceding his death, multiplied by the number of completed years of service under the system, but not to exceed fifty (50) per centum of such compensation.

Election by member or beneficiary.

(c) A member, or a beneficiary after death of a member, may elect, by written designation, duly executed and filed with the board of administration to have the death benefit provided in clauses (a) and (b) paid in monthly installments, fixed in number or amount, all subject to such rules and regulations as the board may adopt. Regular interest shall be credited on the unpaid balance of such benefit, at rates then in use under the system as adopted by the board from time to time.

Where industrial accident compensation awarded—refund of contributions.

(d) If compensation is awarded by the industrial accident board of the State of Montana by reason of a finding that the member's death resulted from injury or disease arising out of or in the course of employment, the death

benefit payable hereunder shall be limited to *a* refund of the member's accumulated contributions. In any case where the industrial accident board makes a determination that death of a state employee resulted from injury or disease arising out of and in the course of employment and pays compensation therefor, the industrial accident board shall certify its findings and determination to the board of administration of the public employees' retirement system.

Survivorship provision.

(e) Survivorship provision. In lieu of the benefits provided in (a) and (b) above, if the deceased member is qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. Said monthly life annuity is to be based on the beneficiary's attained age at the time of the deceased member's death and to be calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions; and provided that this provision be retroactive for all members who had an option for a lesser retirement allowance filed in the retirement system office at the time of their death.

Election by beneficiary.

(f) The beneficiary named in (e) above shall have the right within ninety (90) days of the member's death to elect to receive a death benefit instead of the benefit designated in (e) above."

Amending clause.

Section 10. That section 68-1303 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Retirement fund exempt from legal processes.

"68-1303. **Retirement Fund Exempt From Execution, Garnishment, Attachment or Assignment.** The right of a person to a pension, an annuity or a retirement allowance to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this act and the moneys in the fund created under this act shall not be subject to execution, garnishment, attachment, *state or municipal* taxes, or any other process whatsoever, and shall be unassignable except as in this act specifically provided."

Amending clause.

Section 11. That section 68-1306 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Ineligibility while in state service.

"68-1306. **Retired Members Not Eligible for** *Retirement Allowance While in State Service.* No person who has been retired for service or disability shall be paid *any retirement allowance during the time which he receives compensation for* service rendered by him to the state or to a contracting city after the date of his retirement."

Amending clause.

Section 12. That section 68-1308 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

All compensation used in computing maximum salary.

"68-1308. **Maximum Salary Considered.** *From and after July 1, 1955,* for the purpose of computing the total amounts of compensation of members under the provisions of section 68-1307, *all compensation shall be used.*"

Severability clause.

Section 13. If any clause, sentence, paragraph, section, subdivision, or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, inoperative, or unconstitutional, such decision shall not affect, impair, or invalidate the remaining portions of this act, but shall be confined in its operation to the clause, sentence, paragraph, section, subdivision, or part directly adjudged to be invalid, inoperative or unconstitutional.

Repealing clause.

Section 14. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 15. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1955.

CHAPTER 93

An Act to Amend Section 75-1831 of the Revised Codes of Montana, 1947, Relating to the Method of Keeping Books and the Examination of Books of Third Class School Districts Not Maintaining a High School.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1831 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Third class school districts not maintaining a high school—accounting methods prescribed.

"75-1831. (1039.7) **Examination of School District Books — Accounting Methods to be Prescribed — Reports.** It shall be the duty of the county auditor in all counties having an auditor, and the county treasurer in all counties not having an auditor, to prescribe the method of keeping the books in school districts of the third class *not maintaining a high school* in their respective counties, and to make an examination of the books of such third class school districts at least once every year, and whenever directed so to do by the board of county commissioners, or requested by the board of trustees of such school districts. It shall be the duty of the clerk of districts of the third class *not maintaining a high school* of each of the several counties of the state to deliver to the county auditor or treasurer, as in this act provided, between the fifteenth day of June and the fifteenth day of July of each year, all books, vouchers, claims, and other papers pertaining to his office, and take a receipt therefor, and all such books, vouchers, claims and papers shall be examined by said auditor or treasurer and returned to the several clerks, not later than August fifteenth of each year.

Examination of books.

Report of examiner to chairman of trustees.

"Upon the completion of the examination provided for in this act, the auditor or treasurer, as the case may be, shall report the result of his examination by sending to the chairman of each board of trustees a written report of such examination and file a copy of each such report in the office of the county superintendent of schools."

Copy filed.

Approved March 2, 1955.

CHAPTER 94

An Act to Amend Section 59-519, Revised Codes of Montana, 1947, Relating to Nepotism, and the Appointment and Employment of Relatives Within Certain Degrees, and Providing Exceptions Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 59-519, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Appointment of relative unlawful.

"59-519. (456.2) **Appointment of Relative to Office of Trust or Emolument Unlawful.** It shall be unlawful